

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

JED STEWART LINEBERRY	§	
VS.	§	CIVIL ACTION NO. 5:08cv136
UNITED STATES OF AMERICA	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Jed Stewart Lineberry, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the petition be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R.

Civ. P. 72(b). After careful consideration, the court concludes the objections are without merit. The Supreme Court's decision in *District of Columbia v. Heller*, \_\_\_ U.S. \_\_\_, 128 S.Ct. 2783 (2008), did not provide that the Second Amendment to the Constitution prevents Congress from prohibiting individuals convicted of a felony from possessing firearms. *United States v. Gilbert*, 2008 WL 2740453, \*2 (9<sup>th</sup> Cir. July 15, 2008) ("Under *Heller*, ... convicted felons ... do not have the right to possess any firearms."); *United States v. Robinson*, 2008 WL 2937742 (E.D. Wis. July 23, 2008); *United States v. Walters*, 2008 WL 2740398 (D.V.I. July 15, 2008).

O R D E R

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be denying this petition.

**SIGNED this 7th day of October, 2008.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE